

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 275

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 31-871, IDAHO CODE, TO REVISE PRO-
2 CEDURES REGARDING CLASSIFICATION AND RETENTION OF RECORDS; AMENDING
3 CHAPTER 2, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-217,
4 IDAHO CODE, TO PROVIDE PROCEDURES FOR RETENTION OF COUNTY ELECTION
5 RECORDS; AMENDING SECTION 34-408A, IDAHO CODE, TO REVISE PROCEDURES
6 REGARDING ELECTION DAY REGISTRATION AND TO MAKE A TECHNICAL CORRECTION;
7 AMENDING SECTION 34-502, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT
8 THE COUNTY CLERK SHALL DELIVER IN WRITING TO EACH PRECINCT COMMITTEE-
9 MAN A CERTAIN NOTICE; AMENDING SECTION 34-624, IDAHO CODE, TO REVISE
10 REQUIREMENTS FOR A PRECINCT COMMITTEEMAN; AMENDING SECTION 34-708A,
11 IDAHO CODE, TO REVISE QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR
12 PRESIDENT AND VICE-PRESIDENT; AMENDING SECTION 34-732, IDAHO CODE,
13 TO REVISE PROCEDURES FOR SELECTION OF CANDIDATES FOR NOMINATION IN
14 PRESIDENTIAL PRIMARIES; AMENDING SECTION 34-903, IDAHO CODE, TO RE-
15 VISE WHAT SHALL APPEAR ON ELECTION BALLOTS; AMENDING SECTION 34-910,
16 IDAHO CODE, TO PROVIDE THAT UPON RECEIPT OF THE BALLOTS AND SUPPLIES,
17 THE CHIEF JUDGE OF ELECTIONS OR OTHER DESIGNATED JUDGE MUST RETURN A
18 WRITTEN RECEIPT TO THE COUNTY CLERK; AMENDING SECTION 34-1005, IDAHO
19 CODE, TO REVISE PROCEDURES FOR RETURN OF AN ABSENTEE BALLOT; AMENDING
20 SECTION 34-1007, IDAHO CODE, TO REVISE PROCEDURES FOR TRANSMISSION OF
21 ABSENTEE BALLOTS TO THE POLLS; AMENDING SECTION 34-1201, IDAHO CODE,
22 TO REVISE PROCEDURES FOR CANVASS OF VOTES; AMENDING SECTION 34-1402,
23 IDAHO CODE, TO REVISE REGISTRATION PROVISIONS; AMENDING CHAPTER 14,
24 TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1413, IDAHO
25 CODE, TO PROVIDE FOR MODIFIED PROCEDURES FOR CERTAIN POLITICAL SUB-
26 DIVISION ELECTIONS; AMENDING SECTION 34-1802, IDAHO CODE, TO REVISE
27 DATES FOR INITIATIVE PETITIONS; AMENDING SECTION 34-1807, IDAHO CODE,
28 TO REVISE PROCEDURES REGARDING PERSONS CIRCULATING A PETITION FOR AN
29 INITIATIVE OR REFERENDUM; AMENDING SECTION 34-2301, IDAHO CODE, TO RE-
30 VISE PROVISIONS AND PROCEDURES RELATING TO AN APPLICATION FOR RECOUNT
31 OF BALLOTS; AMENDING SECTION 34-2302, IDAHO CODE, TO PROVIDE THAT THE
32 RECOUNT APPLICATION SHALL BE REMITTED TO THE ATTORNEY GENERAL OR COUNTY
33 CLERK AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-2303,
34 IDAHO CODE, TO PROVIDE THAT THE ATTORNEY GENERAL OR COUNTY CLERK SHALL
35 CAUSE ALL BALLOT BOXES IN PRECINCTS TO BE RECOUNTED TO BE IMPOUNDED AND
36 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-2304, IDAHO CODE,
37 TO PROVIDE THE ATTORNEY GENERAL OR COUNTY CLERK SHALL ISSUE AN ORDER FOR
38 RECOUNT; AMENDING SECTION 34-2305, IDAHO CODE, TO REVISE THE MANNER OF
39 RECOUNTING; AMENDING SECTION 34-2306, IDAHO CODE, TO REVISE PROVISIONS
40 REGARDING WHEN THE PERSON IS RELIEVED OF COSTS OF THE RECOUNT; AMEND-
41 ING SECTION 34-2307, IDAHO CODE, TO REVISE PROVISIONS WHEN A GENERAL
42 RECOUNT IS ORDERED; AMENDING SECTION 34-2308, IDAHO CODE, TO REVISE
43 PROCEDURES WHEN A CANDIDATE OR A PERSON ON EITHER SIDE OF A MEASURE DIS-
44 AGREES WITH RECOUNT RESULTS; AMENDING SECTION 34-2309, IDAHO CODE, TO
45

1 REWISE PROVISIONS RELATING TO AN AUTOMATIC RECOUNT; AMENDING CHAPTER
2 23, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-2313, IDAHO
3 CODE, TO PROVIDE RECOUNT PROCEDURES FOR AUTOMATED TABULATION SYSTEMS;
4 AND DECLARING AN EMERGENCY.

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 31-871, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 31-871. CLASSIFICATION AND RETENTION OF RECORDS. (1) County records
9 shall be classified as follows:

10 (a) "Permanent records" shall consist of, but not be limited to, the
11 following: proceedings of the governing body, ordinances, resolu-
12 tions, building plans and specifications for commercial projects and
13 government buildings, bond register, warrant register, budget records,
14 general ledger, cash books and records affecting the title to real prop-
15 erty or liens thereon, and other documents or records as may be deemed of
16 permanent nature by the board of county commissioners.

17 (b) "Semipermanent records" shall consist of, but not be limited to,
18 the following: claims, contracts, canceled checks, warrants, dupli-
19 cate warrants, license applications, building applications for commer-
20 cial projects and government buildings, departmental reports, purchase
21 orders, vouchers, duplicate receipts, bonds and coupons, ~~registration~~
22 ~~and other election records excluding election ballots and tally books,~~
23 financial records, and other documents or records as may be deemed of
24 semipermanent nature by the board of county commissioners.

25 (c) "Temporary records" shall consist of, but not be limited to, the
26 following: correspondence not related to subsections (1) and (2)
27 of this section, building applications, plans, and specifications
28 for noncommercial and nongovernment projects after the structure or
29 project receives final inspection and approval, cash receipts subject
30 to audit, ~~election ballots and tally books,~~ and other records as may be
31 deemed temporary by the board of county commissioners.

32 (d) Those records not included in subsection (1) (a), (b) or (c) of this
33 section shall be classified as permanent, semipermanent or temporary by
34 the board of county commissioners and upon the advice of the office of
35 the prosecuting attorney.

36 (2) County records shall be retained as follows:

37 (a) Permanent records shall be retained for not less than ten (10)
38 years.

39 (b) Semipermanent records shall be kept for not less than five (5) years
40 after date of issuance or completion of the matter contained within the
41 record.

42 (c) Temporary records shall be retained for not less than two (2) years.

43 (d) Records may only be destroyed by resolution of the board of county
44 commissioners after regular audit and upon the advice of the prosecut-
45 ing attorney. A resolution ordering destruction must list, in detail,
46 records to be destroyed. Such disposition shall be under the direction
47 and supervision of the elected official or department head responsible
48 for such records.

1 (e) The provisions of this section shall control the classification and
 2 retention schedules of all county records unless otherwise provided in
 3 Idaho Code or any applicable federal law.

4 SECTION 2. That Chapter 2, Title 34, Idaho Code, be, and the same is
 5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 6 ignated as Section 34-217, Idaho Code, and to read as follows:

7 34-217. RETENTION OF COUNTY ELECTION RECORDS. County election
 8 records shall be maintained by the county clerk for the time periods outlined
 9 in this section. Records shall be maintained for the period specified be-
 10 ginning with the date the record is created or has become no longer valid,
 11 whichever is greater.

12 (1) The following records shall be retained for not less than five (5)
 13 years:

14 (a) Voter registration cards for electors whose registration has been
 15 terminated.

16 (b) Combination election record and poll book.

17 (c) Declaration of candidacy.

18 (d) Maps of precinct boundaries with legal descriptions.

19 (e) List of absentee voters.

20 (2) The following shall be retained for two (2) years:

21 (a) Correspondence relating to an elector's voter registration.

22 (b) Completed absentee ballot request forms.

23 (3) The following shall be maintained for one (1) year:

24 (a) Tally books.

25 (b) Absentee ballot affidavit envelopes.

26 (c) Notice of election.

27 (d) Personal identification affidavit.

28 (e) Voted ballots.

29 (f) Unvoted ballots from the primary election.

30 (g) Ballot tracking logs.

31 (h) Any ballots that were required to be duplicated before being
 32 counted.

33 (i) Automated tabulation election logs.

34 (j) Copy of the election definition and program used in tabulating bal-
 35 lots electronically and in the ballot marking device.

36 (k) Record of the number of ballots printed and furnished to each
 37 polling place.

38 (4) Other election supplies including, but not limited to, unused bal-
 39 lots, official election stamps, spoiled ballots may be disposed of sixty
 40 (60) days following the deadline for requesting a recount or filing an elec-
 41 tion contest pursuant to chapters 20 and 21, title 34, Idaho Code.

42 SECTION 3. That Section 34-408A, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 34-408A. ELECTION DAY REGISTRATION. An individual who is eligible to
 45 vote may register on election day by appearing in person at the polling place
 46 for the precinct in which the individual maintains residence, by completing
 47 a registration card, making an oath in the form prescribed by the secretary

1 of state and providing proof of residence. An individual may prove residence
2 for purposes of registering by:

3 (1) Showing an Idaho driver's license or Idaho identification card is-
4 sued through the department of transportation; or

5 (2) Showing any document which contains a valid address in the precinct
6 together with a picture identification card; or

7 (3) Showing a current valid student photo identification card from a
8 ~~post-secondary~~ postsecondary educational institution in Idaho accompanied
9 with a current student fee statement that contains the student's valid ad-
10 dress in the precinct ~~together with a picture identification card.~~

11 Election day registration provided in this section shall apply to all
12 elections conducted under title 34, Idaho Code, and to school district and
13 municipal elections.

14 An individual who is eligible to vote may also register, upon providing
15 proof of residence, at the "absent electors' polling place" provided in sec-
16 tion 34-1006, Idaho Code.

17 SECTION 4. That Section 34-502, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 34-502. COUNTY CENTRAL COMMITTEE -- MEMBERS -- OFFICERS -- DUTIES OF
20 CHAIRMAN -- NOTICE TO CHAIRMAN. The county central committee of each polit-
21 ical party in each county shall consist of the precinct committeemen rep-
22 resenting the precincts within the county and the county chairman elected
23 by the precinct committeemen. The precinct committeemen within each county
24 shall meet at the county seat within ten (10) days after the primary election
25 and at the time and date designated by the incumbent county chairman, and
26 shall organize by electing a chairman, vice chairman, a secretary, a state
27 committeeman, a state committeewoman, and such other officers as they may
28 desire who shall hold office at the pleasure of the county central committee
29 or until their successors are elected.

30 Unless state party rules, adopted as provided in section 34-505, Idaho
31 Code, provide otherwise, when a vacancy exists in the office of county cen-
32 tral committee chairman, it shall be the duty of the state central commit-
33 tee chairman to call a meeting of the precinct committeemen of the county,
34 and the precinct committeemen shall proceed to elect a chairman of the county
35 central committee for the balance of the unexpired term.

36 The county central committee shall fill by appointment all vacancies
37 that occur or exist in the office of precinct committeeman who shall be a
38 qualified elector of the precinct.

39 The county clerk shall deliver in writing to the chairman of the county
40 central committee of each political party on or before January 20 of each
41 year in which a general election is to be held, a list of the election
42 precincts in the county and the names and addresses of the precinct com-
43 mitteemen who were elected at the last primary election, or who have since
44 been appointed as precinct committeemen, as such election or appointment is
45 shown on the records of the county clerk. If the county clerk has no record
46 of precinct committeemen, he shall in writing, so inform the chairman of the
47 county central committee.

48 The chairman of the county central committee shall on or before Febru-
49 ary 1 of each year in which a general election is to be held, and at such other

1 times as changes occur, certify to the county clerk the names and addresses
 2 of the precinct committeemen of his political party. ~~Immediately upon re-~~
 3 ~~ceipt of certification, the county clerk shall deliver in writing to each~~
 4 ~~precinct committeeman a notice of the provisions of subsection (1) of sec-~~
 5 ~~tion 34-406, Idaho Code.~~

6 SECTION 5. That Section 34-624, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 34-624. ELECTION OF PRECINCT COMMITTEEMEN -- QUALIFICATIONS. (1) At
 9 the primary election, 1980, and every two (2) years thereafter, a precinct
 10 committeeman for each political party shall be elected in every voting
 11 precinct within each county. The term of office of a precinct committeeman
 12 shall be from the eighth day following the primary election until the eighth
 13 day following the next succeeding primary election.

14 (2) No person shall be elected to the office of precinct committeeman
 15 unless he has attained the age of eighteen (18) years at the time of his elec-
 16 tion, is a citizen of the United States, a registered elector of and shall
 17 have resided within the voting precinct for a period of six (6) months next
 18 preceding his election.

19 (3) Each candidate shall file a declaration of candidacy with the
 20 county clerk.

21 (4) No filing fee shall be charged any candidate at the time of his fil-
 22 ing his declaration of candidacy.

23 SECTION 6. That Section 34-708A, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESI-
 26 DENT. Persons who desire to be independent candidates for the offices of
 27 president and vice-president, must file, prior to August 25 of the election
 28 year, declarations of candidacy as independent candidates. Such declara-
 29 tions must state that such persons are offering themselves as independent
 30 candidates and must declare that they have no political party affiliation.
 31 The declarations shall have attached thereto a petition signed by ~~a number~~
 32 ~~of~~ one thousand (1,000) qualified electors ~~not less than one percent (1%) of~~
 33 ~~the number of votes cast in this state for presidential electors at the pre-~~
 34 ~~vious general election at which a president of the United States was elected.~~

35 The candidates for president and vice-president shall be considered as
 36 candidates for one (1) office, and only one (1) such petition need be filed
 37 for both offices.

38 Signatures on the petitions required in this section shall be verified
 39 in the manner prescribed in section 34-1807, Idaho Code.

40 SECTION 7. That Section 34-732, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 34-732. SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRI-
 43 MARY. Each qualified elector shall have the opportunity to vote on the offi-
 44 cial presidential preference primary ballot for one (1) person to be the can-
 45 didate for nomination by a party for president of the United States. The name

1 of any candidate for a political party nomination for president of the United
2 States shall be printed on the ballots only:

3 (1) If the secretary of state shall have determined, in his sole dis-
4 cretion, that the person's candidacy is generally advocated or recognized
5 in national news media throughout the United States. For the purpose of
6 promoting the aspect of a regional primary in this regard, the secretary of
7 state may consult with the chief election officers of neighboring states
8 which conduct a presidential primary election on the third Tuesday in May.
9 The secretary of state shall publish the names of such persons determined by
10 him to be such candidates, together with their party affiliation, not less
11 than ~~sixty (60)~~ seventy-five (75) days prior to the date of the presidential
12 preference primary; or

13 (2) Any candidate who was not placed upon the ballot by the secretary of
14 state under the provisions of subsection (1) of this section shall be placed
15 upon the ballot after filing a declaration of candidacy accompanied by a
16 petition containing signatures of five hundred (500) qualified electors and
17 a one thousand dollar (\$1,000) filing fee. The declaration shall be filed
18 with the secretary of state no later than the ~~fiftieth~~ sixtieth day prior to
19 the date of the presidential preference primary.

20 SECTION 8. That Section 34-903, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 34-903. SECRETARY OF STATE TO PRESCRIBE FORM AND CONTENTS OF ALL BAL-
23 LOTS AND RELATED DOCUMENTS. (1) The secretary of state shall, in a manner
24 consistent with the election laws of this state, prescribe the form for
25 all ballots, absentee ballots, diagrams, sample ballots, ballot labels,
26 voting machine labels or booklets, certificates, notices, declarations of
27 candidacy, affidavits of all types, lists, applications, poll books, tally
28 sheets, registers, rosters, statements and abstracts if required by the
29 election laws of this state.

30 (2) The secretary of state shall prescribe the arrangement of the mat-
31 ter to be printed on each kind of ballot and label, including:

32 (a) The placement and listing of all offices, candidates and issues
33 upon which voting is statewide, which shall be uniform throughout the
34 state.

35 (b) The listing of all other candidates required to file with him, and
36 the order of listing all offices and issues upon which voting is not
37 statewide.

38 (3) The names of candidates for legislative or special district offices
39 shall be printed only on the ballots and ballot labels furnished to voters of
40 such district.

41 (4) The names of ~~all~~ candidates which appear on ~~any~~ election ballots for
42 federal, state, county and city offices shall be rotated in the manner de-
43 termined by the secretary of state. The order of candidates for office in
44 other elections shall be determined by applying the first letter of each can-
45 didate's last name to a random alphabet selected prior to each election by
46 the secretary of state.

47 (5) No candidate's name may appear on a ballot for more than one (1)
48 office, except that a candidate for precinct committeeman may seek one (1)
49 additional office upon the same ballot. The provisions of this subsection

1 shall not apply to the election of electors of president and vice-president
2 of the United States.

3 SECTION 9. That Section 34-910, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 34-910. DUTY OF COUNTY CLERK TO FURNISH SUFFICIENT BALLOTS TO EACH
6 VOTING PRECINCT -- RECORD OF NUMBER OF BALLOTS PRINTED AND FURNISHED. It
7 shall be the duty of the county clerk to furnish and cause to be delivered a
8 sufficient number of election ballots to the judges of elections of each vot-
9 ing precinct. The ballots shall be delivered to the polling place within the
10 precinct on or before the opening of the polls for the election together with
11 the official stamp and ink pad in sealed packages. Upon delivery receipt of
12 the ballots and supplies, the chief judge of elections or other designated
13 judge must return a written receipt to the county clerk.

14 The county clerk shall keep a record of the number of ballots printed and
15 furnished to each polling place within the county and preserve the same for
16 one (1) year.

17 SECTION 10. That Section 34-1005, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 34-1005. RETURN OF ABSENTEE BALLOT. The return envelope shall be
20 mailed or delivered to the officer who issued the same; provided, that an
21 absentee ballot must be received by the issuing officer by 8:00 p.m. on the
22 day of election before such ballot may be counted.

23 Upon receipt of an absent elector's ballot the county clerk of the
24 county wherein such elector resides shall verify the authenticity of the
25 affidavit and shall write or stamp upon the envelope containing the same,
26 the date and hour such envelope was received in his office and record the
27 information pursuant to section 34-1011, Idaho Code. He shall safely keep
28 and preserve all absent electors' ballots unopened until the time prescribed
29 for delivery to the judges ~~in accordance with this act~~ polls or to the central
30 count ballot processing center.

31 SECTION 11. That Section 34-1007, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 34-1007. TRANSMISSION OF ABSENTEE BALLOTS TO POLLS. ~~On receipt of such~~
34 ~~absent elector's ballot or ballots, the officer receiving them~~ Absentee bal-
35 lots that are to be counted at the polls shall forthwith be enclosed, the
36 ~~same, unopened in a carrier envelope endorsed with the name and official ti-~~
37 ~~tle of such officer by the county clerk~~ and the words: "absent electors' bal-
38 lot to be opened only at the polls." He shall hold the same until the delivery
39 of the official ballots to the judges of election of the precinct in which the
40 elector resides and shall deliver the ballot or ballots to the judges with
41 such official ballots.

42 In those counties which count ballots at a central location, absentee
43 ballots that are received may, in the discretion of the county clerk, be re-
44 tained in a secure place in the clerk's office and such ballots shall be added
45 to the precinct returns at the time of ballot tabulation. The clerk shall de-

1 liver to the polls a list of those absentee ballots received to record in the
2 official poll book that the elector has voted.

3 Due to the number of absentee ballots being received, the amount of time
4 required to open and remove absentee ballots from their envelopes and the
5 need to allow the folded optical scan ballots to flatten out before being run
6 through the tabulators, optical scan absentee ballot envelopes may be opened
7 prior to election day. When opening absentee ballot envelopes prior to elec-
8 tion day, the county clerk shall follow the following procedures in this sec-
9 tion:

10 (1) Calculate the number of absentee ballots received to determine the
11 amount of time required to open the absentee affidavit envelopes and secu-
12 rity envelopes, and remove the voted ballot. Then, count backwards from
13 election day that calculated amount of time to determine when to begin; how-
14 ever, no ballot envelopes shall be opened more than twenty-four (24) hours
15 before election day.

16 (2) After the signatures on the affidavit envelopes have been verified
17 against the scanned signature in the voter registration system and have been
18 recorded as being received, the affidavit envelope and the ballot secrecy
19 envelopes may be separated. The ballot secrecy envelopes may then be opened
20 and the ballots removed in a manner that protects the secrecy of the ballot.
21 The ballots may then be laid out to flatten before running them through the
22 tabulators.

23 (3) In order to maintain the integrity and security of the ballots, af-
24 ter they are removed from the secrecy envelopes, they are to be kept in a
25 secure location with limited access. Whenever those ballots are accessed,
26 there shall be at least two (2) individuals present. Arrangements shall be
27 made to have a guard such as a deputy sheriff, police officer or private secu-
28 rity firm to secure the location where the open ballots are stored.

29 (4) Watchers, who have been certified by the parties or candidates, are
30 to be informed of the intent to open ballot envelopes early and of the sched-
31 ule, in order to be there if they so desire.

32 (5) The counting of absentee ballots shall not begin until election
33 day; however, no results shall be released until the polls are closed.

34 SECTION 12. That Section 34-1201, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 34-1201. CANVASS OF VOTES. (1) When the polls are closed the judges
37 must immediately proceed to count the ballots cast at such election. The
38 counting must be continued without adjournment until completed and the re-
39 sult declared.

40 (2) If the precinct has duplicate ballot boxes, the counting ~~shall~~ may
41 begin after five (5) ballots have been cast. At this time, the additional
42 clerks shall close the first ballot box and retire to the counting area and
43 count the ballots. Upon completion of this counting the clerks shall return
44 the ballot box and then proceed to count all of the ballots cast in the sec-
45 ond box during this period. This counting shall continue until the polls are
46 closed at which time all election personnel shall complete the counting of
47 the ballots.

48 (3) The county clerk may designate paper ballots be returned to a cen-
49 tral count location for counting by special counting boards. If the paper

1 ballots are to be counted at a central count location, a procedure may be
 2 adopted to deliver the voted ballots to the county clerk prior to the clos-
 3 ing of the polls. The results of this early count shall not be released to the
 4 public until after 8:00 p.m. of election day.

5 SECTION 13. That Section 34-1402, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 34-1402. REGISTRATION. All electors must register with the county
 8 clerk before being able to vote in any primary, general, special or any other
 9 election conducted in this state. The county clerk shall determine, for
 10 each registered elector, the elections for which he is eligible to vote by a
 11 determination of the applicable code areas. The determination of tax code
 12 area shall be made for all political subdivisions including those otherwise
 13 exempt from the provisions of this chapter.

14 The county clerk shall conform to the provisions of chapter 4, title 34,
 15 Idaho Code, in the administration of registration for all political subdivi-
 16 sions within the county. ~~The county clerk shall appoint each city clerk~~
 17 ~~for any city within the county and each election official designated by a po-~~
 18 ~~litical subdivision, as an at-large registrar as provided in section 34-406,~~
 19 ~~Idaho Code, except that no compensation shall be paid by the county clerk for~~
 20 ~~electors registered by these special registrars.~~

21 SECTION 14. That Chapter 14, Title 34, Idaho Code, be, and the same is
 22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 23 ignated as Section 34-1413, Idaho Code, and to read as follows:

24 34-1413. PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS TO
 25 MODIFY VOTING PROCEDURES. Any county that has a political subdivision in
 26 which there is more than one (1) county contained in the political subdivi-
 27 sion boundaries and that wishes to modify voting procedures shall submit an
 28 election plan to the secretary of state for approval for the modified voting
 29 procedures to be effective at least forty (40) calendar days prior to an
 30 election. The secretary of state shall notify the political subdivision of
 31 its approval, disapproval and, if it is disapproved, what remedial measures
 32 may be taken that would allow for approval of the voting plan.

33 SECTION 15. That Section 34-1802, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 34-1802. INITIATIVE PETITIONS -- TIME FOR GATHERING SIGNATURES --
 36 TIME FOR SUBMISSION OF SIGNATURES TO THE COUNTY CLERK -- TIME FOR FILING. (1)
 37 Except as provided in section 34-1804, Idaho Code, petitions for an initia-
 38 tive shall be circulated and signatures obtained beginning upon the date
 39 that the petitioners receive the official ballot title from the secretary of
 40 state and extending eighteen (18) months from that date or April 30 of the
 41 year ~~that an election on the initiative will be held~~ of the next general elec-
 42 tion, whichever occurs earlier. The last day for circulating petitions and
 43 obtaining signatures shall be the last day of April in the year an election
 44 on the initiative will be held.

1 (2) The person or persons or organization or organizations under whose
2 authority the measure is to be initiated shall submit the petitions contain-
3 ing signatures to the county clerk for verification pursuant to the provi-
4 sions of section 34-1807, Idaho Code. The signatures required shall be sub-
5 mitted to the county clerk not later than the close of business on the first
6 day of May in the year an election on the initiative will be held, or eighteen
7 (18) months from the date the petitioner receives the official ballot title
8 from the secretary of state, whichever is earlier.

9 (3) The county clerk shall, within sixty (60) calendar days of the dead-
10 line for the submission of the signatures, verify the signatures contained
11 in the petitions, but in no event shall the time extend beyond the last day of
12 June in the year an election on the initiative will be held.

13 (4) Initiative petitions with the requisite number of signatures at-
14 tached shall be filed with the secretary of state not less than four (4)
15 months before the election at which they are to be voted upon.

16 SECTION 16. That Section 34-1807, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 34-1807. CIRCULATION OF PETITIONS -- VERIFICATION OF PETITION AND
19 SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND
20 RECORDS -- CERTAIN PETITIONS AND SIGNATURES VOID. Any person who circulates
21 any petition for an initiative or referendum shall be ~~a resident of the state~~
22 ~~of Idaho and~~ at least eighteen (18) years of age. Each and every sheet of
23 every such petition containing signatures shall be verified on the face
24 thereof in substantially the following form, by the person who circulated
25 said sheet of said petition, by his or her affidavit thereon, and as a part
26 thereof:

27 State of Idaho,
28 ss.
29 County of

30 I,, being first duly sworn, say: That I am ~~a resident of the State~~
31 ~~of Idaho and~~ at least eighteen (18) years of age: that every person who
32 signed this sheet of the foregoing petition signed his or her name thereto
33 in my presence: I believe that each has stated his or her name, post-office
34 address and residence correctly, that each signer is a qualified elector of
35 the State of Idaho, and a resident of the county of

36 Signed....
37 Post-office address
38 Subscribed and sworn to before me this day of
39 (Notary Seal) Notary Public....
40 Residing at

41 In addition to said affidavit the county clerk shall carefully examine
42 said petitions and shall attach to the signature sheets a certificate to the
43 secretary of state substantially as follows:

44 State of Idaho
45 ss.
46 County of

47 To the honorable, Secretary of State for the State of Idaho: I,
48, County Clerk of County, hereby certify that signatures on
49 this petition are those of qualified electors.

Signed
County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a ~~resident of the state of Idaho~~ and at least eighteen (18) years of age, shall be void. ~~The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to (to) being a resident, a petition circulator shall be at least eighteen (18) years of age.~~

SECTION 17. That Section 34-2301, Idaho Code, be, and the same is hereby amended to read as follows:

34-2301. APPLICATION FOR RECOUNT OF BALLOTS. (1) Any candidate for federal, state, county or municipal office desiring a recount of the ballots cast in any nominating or general election or person supporting or opposing a state, county or city measure, may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by the county commissioners if for a county or municipal office.

(2) Candidates for all other offices and supporters and opponents to all other ballot measures desiring a recount may apply to the county clerk within twenty (20) days of the canvass of said election by the board of county commissioners.

SECTION 18. That Section 34-2302, Idaho Code, be, and the same is hereby amended to read as follows:

34-2302. PRECINCTS SPECIFIED FOR RECOUNT -- REMITTANCE. In his application he shall state the precinct or precincts in which he desires recount to be made and shall remit to the attorney general or county clerk, pursuant to section 34-2301, Idaho Code, together with his application the sum of one hundred dollars (\$100.00) for each such precinct in which he desires a recount made.

SECTION 19. That Section 34-2303, Idaho Code, be, and the same is hereby amended to read as follows:

34-2303. BALLOTS ORDERED IMPOUNDED BY ATTORNEY GENERAL. Upon receiving the application for recount together with the remittance required by ~~the preceding~~ section 34-2302, Idaho Code, the attorney general or county clerk, pursuant to section 34-2301, Idaho Code, shall cause all ballot boxes used in such election in the precinct or precincts in which recount is to be made to be immediately impounded and taken into custody by the sheriff of the county or counties in which precinct or precincts are located. In the event that the

1 recount is of the results of a primary election the ballot boxes used to hold
2 the blank half of the ballot shall also be impounded.

3 SECTION 20. That Section 34-2304, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 34-2304. ORDER FOR RECOUNT -- PROCEDURE -- NOTICE. The attorney gen-
6 eral or county clerk shall then issue an order for recount. The order shall
7 name the prior election judges and clerks of the precinct to act in the same
8 capacity and receive the same compensation as they did on election day. The
9 order shall provide for the place where the recount is to be made; that all
10 candidates named on the ballot for the office contested, or a representative
11 of either or all of them, may be present to watch the counting; and that ev-
12 ery other person interested may be present. The order shall state the date on
13 which the recount is to be made which shall not be more than ten (10) days from
14 the date of the order. Copies of the order shall be mailed to each candidate
15 named on the ballot for the office to be recounted.

16 SECTION 21. That Section 34-2305, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 34-2305. MANNER OF RECOUNTING. At the time and place fixed for re-
19 counting the ballots cast in any precinct all ballots shall be recounted in
20 plain view of the candidates or their representatives, and if the recount is
21 of a primary election the blank ballots shall be counted against the ballots
22 that were voted. The recount shall commence at the time and place so ordered,
23 and shall continue until the recount is finished and the results tabulated.
24 ~~The recount shall be conducted under the same conditions and in the same man-~~
25 ~~ner as the original count.~~ The attorney general shall be the final authority
26 concerning any question which arises during the recount for federal, state,
27 county or municipal elections. The county prosecuting attorney shall be the
28 final authority concerning any question that arises during the recount of
29 other elections.

30 SECTION 22. That Section 34-2306, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 34-2306. DIFFERENCE REVEALED BY RECOUNT -- CANDIDATE RELIEVED OF
33 COSTS. If the results of the recount indicate a difference, which if pro-
34 jected across all the precincts of the office in question would change the
35 result of the election in favor of the candidate requesting the recount or
36 change in the measure being recounted, then the cost of such recount shall
37 be borne by the county or state and the sums of money theretofore paid for
38 the recount shall be returned to the candidate or person who requested the
39 recount of a ballot measure.

40 In order to be relieved of the costs of the recount, the candidate or
41 person must request that at least twenty (20) precincts containing not less
42 than five thousand (5,000) votes cast be recounted if for a federal or state
43 office or measure, or five (5) precincts containing not less than one thou-
44 sand two hundred fifty (1,250) votes cast be recounted for a state legisla-
45 tive district office, or at least two (2) precincts having not less than five

1 hundred (500) votes cast be recounted for a county office or measure, or two
 2 (2) precincts having not less than two hundred (200) votes cast to be re-
 3 counted in city or district elections.

4 SECTION 23. That Section 34-2307, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 34-2307. WHEN GENERAL RECOUNT ORDERED. If the candidate or person who
 7 requested the recount is relieved of the costs of the recount as described in
 8 section 34-2306, Idaho Code, the attorney general shall require a recount to
 9 be made in all the remaining precincts of the office in question. The state
 10 shall pay for a general recount of a federal, state, or legislative district
 11 office, while the county shall pay for a general recount of a county, city or
 12 district office.

13 SECTION 24. That Section 34-2308, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 34-2308. CANDIDATE DISAGREEING WITH RECOUNT RESULTS -- APPEAL. (1)
 16 Any candidate or person may appeal the results of a recount or the determina-
 17 tion that a recount is not necessary when:

18 (a) Any candidate for the office or the person on either side of a mea-
 19 sure for which a recount has been requested disagrees with the results
 20 of the recount and alleges that the law has been misinterpreted or mis-
 21 applied;

22 (b) It appears that a different application or interpretation of the
 23 law would have required a general recount where no general recount was
 24 ordered; or

25 (c) It appears that a different application or interpretation of the
 26 law would not have required a general recount where a general recount
 27 was ordered;

28 then the candidate claiming the misinterpretation or the misapplication of
 29 law may appeal to the district court in the county concerned if the office
 30 is a county, ~~or~~ municipal or district office or to the district court in Ada
 31 county if the office is a federal or state office.

32 (2) The submittal on appeal shall be by brief and submitted within
 33 twenty-four (24) hours following the recount. The appeal submittal shall
 34 be served upon the attorney general of Idaho or the county prosecuting at-
 35 torney within twenty-four (24) hours of filing it within the district court.
 36 The appeal submittal shall also be served upon the opposing candidate(s)
 37 or representatives of the pro and con sides of the ballot measure within
 38 twenty-four (24) hours of filing the appeal in the district court.

39 (3) The attorney general, in consultation with the secretary of state,
 40 may respond to the submittal by brief or the prosecuting attorney, in consul-
 41 tation with the county clerk, may respond for district elections.

42 (4) The opposing candidate(s) or parties, regarding a measure, may re-
 43 spond to the submittal by brief.

44 (5) At the discretion of the district court judge, a hearing may be or-
 45 dered within five (5) days of the filing of the appeal. All parties required
 46 to be served with the appeal may participate fully in the hearing. The judge
 47 may determine that the appeal may be decided on the brief without a hearing.

1 (6) A decision thereon shall be given within five (5) days. Any appeal
2 from the decision of the district court must be taken within twenty-four (24)
3 hours after a decision is rendered. A decision on the appeal shall be given
4 within five (5) days. No further appeal shall be allowed.

5 SECTION 25. That Section 34-2309, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 34-2309. AUTOMATIC RECOUNT. A losing candidate for nomination, or
8 election to a federal, state, or county office, or person supporting or
9 opposing a ballot measure, may request a recount of the votes cast for the
10 nomination or election to that office or passage or failure of a measure if
11 the difference between the vote cast for that candidate and for the winning
12 candidate for nomination or election, or the difference between the yes
13 and no votes on a measure, is less than or equal to one-tenth of one percent
14 (0.1%) of the total votes cast for that office. All requests shall be in
15 writing, and filed with the attorney general during the time mentioned in
16 section 34-2301, Idaho Code.

17 The state shall pay for the automatic recount of a federal, state, or
18 legislative district office, or state measure while the county shall pay for
19 the automatic recount of a county, city or district office or measure.

20 SECTION 26. That Chapter 23, Title 34, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 34-2313, Idaho Code, and to read as follows:

23 34-2313. RECOUNT PROCEDURES FOR AUTOMATED TABULATION SYSTEMS. (1) To
24 ensure the accuracy of automated vote tabulation systems, the county clerk
25 shall follow the recount procedures provided in this section.

26 (2) The votes from a random selection of ballots shall be tallied by
27 hand and the votes from the same ballots shall be tabulated by an electronic
28 ballot tabulating system. For statewide and federal office or a statewide
29 measure, the number of ballots to be tallied and tabulated shall be equal to
30 at least two (2) precincts of the ballots cast in each county. For all other
31 offices or measures, the number of ballots to be tallied and tabulated shall
32 be equal to the greater of one hundred (100) or five percent (5%) of the bal-
33 lots cast for the office or measure, distributed by county where applicable.

34 (3) For a statewide or federal office or a statewide measure, if the
35 results of the hand-tally and the automated vote tally system tabulation
36 within the county differ by one-fourth of one percent (.25%) or less, the re-
37 maining ballots shall be recounted using automated vote tabulating systems.
38 Otherwise, the remaining ballots shall be recounted by hand.

39 (4) For other offices and ballot measures, if the results of the hand-
40 tally and electronic vote tabulating system tabulation differ by less than
41 one percent (1%), or two (2) votes, whichever is greater, the remaining bal-
42 lots shall be recounted using automated vote tabulating systems. Otherwise,
43 the remaining ballots shall be recounted by hand.

44 SECTION 27. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after its
46 passage and approval.